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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/020,521	12/14/2001	(Bruce) Yiqun Wang	1001.1465101	9132
28075	7590	07/06/2004	EXAMINER	
CROMPTON, SEAGER & TUFTE, LLC 1221 NICOLLET AVENUE SUITE 800 MINNEAPOLIS, MN 55403-2420			BRUENJES, CHRISTOPHER P	
			ART UNIT	PAPER NUMBER
			1772	

DATE MAILED: 07/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/020,521

Applicant(s)

WANG ET AL.

Examiner

Christopher P Bruenjes

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,6-11 and 15-21 is/are pending in the application.
- 4a) Of the above claim(s) 19-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,6-11 and 15-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I, claims 1-18 in the reply filed on May 18, 2004 is acknowledged.
2. Claims 19-21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on May 18, 2004.

WITHDRAWN REJECTIONS

3. The objections to the drawings and specification of record in the Office Action mailed February 18, 2004, Pages 3-5 Paragraphs 5-7, have been withdrawn due to Applicant's amendments in the Paper filed May 18, 2004.
4. The 35 U.S.C. 102 rejections of claims 1-2, 6-12, and 15-18 as anticipated by Ju of record in the Office Action mailed February 18, 2004, Pages 5-6 Paragraph 8, have been withdrawn due to Applicant's amendments in the Paper filed May 18, 2004.

REPEATED REJECTIONS

5. The 35 U.S.C. 103 rejections of claims 4-5 and 13-14 over Ju in view of Muni and Jansen have been applied to claims 1-2, 6-11, and 15-18, since these claims now contain the limitations of original claims 4-5 and 13-14 of record in the Office Action mailed February 18, 2004, Pages 7-11 Paragraph 9.

ANSWERS TO APPLICANT'S ARGUMENTS

6. Applicant's arguments regarding the objections to the drawings and specification have been considered but are moot since the rejections have been withdrawn.

7. Applicant's arguments regarding the 35 U.S.C. 102 rejections of claims 1-2, 6-12, and 15-18 as anticipated by Ju have been considered but are moot since the rejections have been withdrawn.

8. Applicant's arguments regarding the 35 U.S.C. 103 rejections of claims 4-5 and 13-14 as applied to claims 1-2, 6-11, and 15-18 over Ju in view of Muni and Jansen have been fully considered but they are not persuasive.

In response to applicant's argument that there is no motivation to combine the references, Muni teaches a motivation

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to change the crystallinity of polymeric sections of a catheter shaft and Jansen teaches that a well-known and successful method of changing crystallinity of polymers is through the use of nucleating agents. The fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985). In this case, although Muni does not teach reducing "cracking" or crystalline fractures adjacent curves in a catheter without significantly affecting flexibility, Muni does teach the structural limitation of having different sections of a catheter shaft formed with different rigidity and crystallinity.

In response to Applicant's argument that it would not be obvious to combine Jansen and Muni, although it is agreed that Muni uses thermal treatments to change the crystalline structure and does not suggest using nucleating agents, Jansen teaches that for polymers being crystallized by thermal treatments such as supercooling, nucleating agents are added to the polymer to lessen the supercooling and shorten the cooling times. Therefore, Jansen provides the motivation to add nucleating agents to the polymers going through thermal treatments for

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crystalline structure changes of Muni, because of the economic benefits to shorter cooling times and less supercooling.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P Bruenjes whose telephone number is 571-272-1489. The examiner can normally be reached on Monday thru Friday from 8:00am-4:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher P Bruenjes
Examiner
Art Unit 1772

CPB

July 1, 2004


HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

7/1/04